

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 52

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO THE CIRCUIT BREAKER PROPERTY TAX RELIEF PROGRAM; AMENDING SECTION 63-713, IDAHO CODE, TO DEFINE A TERM; AMENDING SECTION 63-714, IDAHO CODE, TO REVISE GROUNDS WHEN NO APPLICATION FOR DEFERRAL OF PROPERTY TAXES SHALL BE GRANTED; AMENDING SECTION 63-718, IDAHO CODE, TO REVISE PROVISIONS RELATING TO EVENTS TERMINATING DEFERRAL AND PAYMENT OF DEFERRED TAX AND INTEREST; AMENDING SECTION 63-720, IDAHO CODE, TO REVISE PROVISIONS RELATING TO RECOVERY OF ERRONEOUS AND OTHER IMPROPER DEFERRALS AND TO MAKE A TECHNICAL CORRECTION; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 63-713, Idaho Code, be, and the same is hereby amended to read as follows:

63-713. DEFINITIONS. In addition to the definitions in section 63-701, Idaho Code, the following definitions apply to sections 63-712 through 63-721, Idaho Code.

(1) "Qualified claimant" means:

(a) An individual who is a claimant who applies for and properly receives property tax relief under the provisions of sections 63-701 through 63-710, Idaho Code; or

(b) An individual who meets the definition of "claimant" under section 63-701, Idaho Code, and is otherwise eligible to file a claim under sections 63-701 through 63-710, Idaho Code, except by reason of exceeding the income limitations of section 63-705, Idaho Code, may nevertheless be a qualified claimant, provided his household income does not exceed forty thousand dollars (\$40,000) for the tax year 2007, which amount shall be increased by the annual cost-of-living percentage modification as determined by the secretary of health and human services pursuant to 42 U.S.C. section 415(i) beginning in 2009.

(2) "Qualified property" means property owned by a qualified claimant, provided that the property is the "homestead," as defined in section 63-701, Idaho Code, of the qualified claimant, is owned only by the qualified claimant and his or her spouse and is not subject to a trust or life estate or other ownership held by a person who is not the qualified claimant or his or her spouse.

(3) "Sufficient equity" means that:

(a) The property is not security for a reverse mortgage, a home equity loan or line of credit, or any similar loan or encumbrance; and

(b) The amount of all encumbrances of any nature on the property that are superior to any liens for deferral, plus the amount of property tax and interest previously deferred on the same property, does not exceed

1 eighty percent (80%) of the current year's market value for assessment
 2 purposes.

3 SECTION 2. That Section 63-714, Idaho Code, be, and the same is hereby
 4 amended to read as follows:

5 63-714. APPLICATION -- DEFERRAL OF PROPERTY TAX. (1) A qualified
 6 claimant, as defined in section 63-713(1) (a), Idaho Code, may elect, upon
 7 the application for property tax relief filed under section 63-703, Idaho
 8 Code, to defer payment of any property tax due after application of all ben-
 9 efits available under section 63-704, Idaho Code. A qualified claimant,
 10 as defined in section 63-713(1) (b), Idaho Code, may apply for property tax
 11 deferral under sections 63-712 through 63-721, Idaho Code. The state tax
 12 commission shall prescribe the form and manner by which the election must be
 13 made and may require that the application include information establishing
 14 the outstanding balance of any encumbrances, proof of insurance of an amount
 15 adequate for the amount of deferred tax and interest, and such other informa-
 16 tion as the state tax commission reasonably determines to be necessary. The
 17 state tax commission may require written or other proof of the encumbrances
 18 or casualty insurance in such form as the state tax commission may determine.

19 (2) No application for deferral of property taxes shall be granted if:

20 (a) The application fails to show sufficient equity in that property
 21 ~~after consideration of encumbrances that are superior to any liens for~~
 22 ~~deferral to secure the payment of all existing deferrals granted in the~~
 23 ~~property; or~~

24 (b) The application fails to show proof of insurance of an amount ade-
 25 quate for the amount of the deferred tax and interest; ~~or~~

26 ~~(c) The result would be to defer property taxes which, together with~~
 27 ~~the amount of property tax and interest previously deferred on the same~~
 28 ~~property, would exceed fifty percent (50%) of the qualified claimant's~~
 29 ~~proportional share of the market value of the qualified property.~~

30 SECTION 3. That Section 63-718, Idaho Code, be, and the same is hereby
 31 amended to read as follows:

32 63-718. EVENTS TERMINATING DEFERRAL -- PAYMENT OF DEFERRED TAX AND IN-
 33 TEREST. (1) A deferral of property tax payments shall terminate on the ear-
 34 lier of:

35 (a) Voluntary payment of the full amount of deferred tax and interest to
 36 the state tax commission;

37 (b) The death of the qualified claimant. ~~In the case of~~ or if there is
 38 more than one (1) qualified claimant, the death of the last surviving
 39 qualified claimant;

40 (c) A sale or other transfer of title to the property or any part of the
 41 property except a transfer of title to a surviving spouse of a deceased
 42 qualified claimant;

43 (d) The property no longer qualifies for the exemption provided in sec-
 44 tion 63-602G, Idaho Code, for residential improvements;

45 (e) A determination by the state tax commission under section 63-720,
 46 Idaho Code, that the deferral of property tax payments was erroneously

1 granted to a person who is not a qualified claimant or in regard to prop-
 2 erty that is not qualified property.

3 (2) When a deferral of property tax is terminated any unpaid amount of
 4 deferred tax and interest shall be paid to the state tax commission no later
 5 than one hundred eighty (180) days after the termination.

6 (3) Any payments of deferred property tax received by the state tax
 7 commission under this section or under sections 63-719 and 63-720, Idaho
 8 Code, shall be distributed to the property tax deferral recovery fund which
 9 is hereby created. Amounts in the property tax deferral recovery fund are
 10 hereby continuously appropriated for the purposes of section 63-3638(5),
 11 Idaho Code.

12 SECTION 4. That Section 63-720, Idaho Code, be, and the same is hereby
 13 amended to read as follows:

14 63-720. RECOVERY OF ERRONEOUS AND OTHER IMPROPER DEFERRALS. (1) In
 15 addition to the provisions of section 63-719, Idaho Code, the state tax
 16 commission may recover deferrals of tax payments made under sections 63-712
 17 through 63-721, Idaho Code, from any person who elected the deferral under
 18 section 63-714, Idaho Code, if the commission determines that:

19 (a) A deferral was granted to a person who is not a qualified claimant or
 20 in regard to property that is not qualified property; or

21 (b) The owner of the property subject to the deferral ~~possesses insuf-~~
 22 ~~ficient does not possess sufficient equity in that property, after con-~~
 23 ~~sideration of encumbrances that are superior to any liens for deferral,~~
 24 ~~to secure the payment of all existing deferrals granted in the property.~~

25 (2) The deficiency determination, collection, and enforcement pro-
 26 cedures provided by the Idaho income tax act, sections 63-3039, 63-3042,
 27 63-3043 through 63-3064, Idaho Code, shall apply and be available to the
 28 commission for enforcement and collection under sections 63-712 through
 29 63-721, Idaho Code, and such sections shall, for this purpose, be consid-
 30 ered part of sections 63-712 through 63-721, Idaho Code. Wherever liens
 31 or any other proceedings are defined as income tax liens or proceedings,
 32 they shall, when applied in enforcement or collection under sections 63-712
 33 through 63-721, Idaho Code, be described as tax deferral liens and proceed-
 34 ings. In connection with such sections, a deficiency shall consist of any
 35 amount subject to recovery under this section together with any interest and
 36 penalty due thereon.

37 SECTION 5. An emergency existing therefor, which emergency is hereby
 38 declared to exist, this act shall be in full force and effect on and after its
 39 passage and approval, and retroactively to January 1, 2013.